

§ 40.184

27 CFR Ch. I (4-1-03 Edition)

total quantities of all tobacco products, by kind (small cigars-large cigars; small cigarettes-large cigarettes; chewing tobacco-snuff; pipe tobacco; roll-your-own tobacco):

- (a) Manufactured;
- (b) Received in bond by—
 - (1) Transfer from other factories,
 - (2) Release from customs custody,
 - (3) Transfer from export warehouses, and
 - (4) Transfer from foreign trade zone;
- (c) Received by return to bond;
- (d) Disclosed as an overage by inventory;
- (e) Removed subject to tax (itemize large cigars by sale price in accordance with § 40.22, except cigars that cost more than \$235.294 may optionally be shown as if the price were \$236 per thousand);
- (f) Removed, in bond, for—
 - (1) Export,
 - (2) Transfer to export warehouses,
 - (3) Transfer to other factories,
 - (4) Transfer to a foreign trade zone
 - (5) Use of the United States, and
 - (6) Experimental purposes off factory premises;
- (g) Otherwise disposed of, without determination of tax, by—
 - (1) Consumption by employees on factory premises,
 - (2) Consumption by employees off factory premises, together with the number of employees to whom furnished,
 - (3) Use for experimental purposes on factory premises,
 - (4) Loss,
 - (5) Destruction, and
 - (6) Reduction to materials;
- (h) Disclosed as a shortage by inventory; and
- (i) On which the tax has been determined and which are—
 - (1) Received, and
 - (2) Disposed of.

(Approved by the Office of Management and Budget under control number 1512-0358)

[T.D. ATF-421, 64 FR 71923, Dec. 22, 1999, as amended by T.D. ATF-424, 64 FR 71931, Dec. 22, 1999; T.D. ATF-420, 64 FR 71940, Dec. 22, 1999]

§ 40.184 Record of removals subject to tax.

(a) *Requirement.* Every manufacturer of tobacco products must keep a record

of tobacco products removed from the factory subject to tax. The manufacturer must make entries in this record at the time of removal. The record for each removal must show:

- (1) The date of removal,
- (2) The name and address of the person to whom shipped or delivered,
- (3) The kind and quantity of tobacco products removed, and
- (4) For large cigars, show the sale price (If the sale price is more than \$235.294 per thousand, you may place a note to that effect in the record instead of the actual price).

(b) *Exceptions.* (1) The record of removal may consist of the manufacturer's commercial documents, such as copies of invoices, rather than records prepared expressly to meet the requirements of this section. If commercial documents are used, they must be kept at the factory, contain all the details required by this section, and be clear and accurate. Commercial documents that do not show specifically the tax classification of tobacco products (including sale price of large cigars) are still acceptable if they contain adequate information for an ATF officer to readily ascertain the applicable tax.

(2) Where tobacco products are delivered within the factory directly to the consumer, the record need not show the name and address of the consumer.

(Sec. 2128(c), Pub. L. 94-455, 90 Stat. 1921 (26 U.S.C. 5741))

[T.D. ATF-420, 64 FR 71941, Dec. 22, 1999]

§ 40.185 Retention of records.

All records required to be kept under this part, including copies of authorizations, claims, inventories, notices, reports, returns and schedules, shall be retained by the manufacturer for three years following the close of the calendar year in which filed or made, or in the case of an authorization, for three years following the close of the calendar year in which the operation under such authorization is concluded. Such records shall be kept in the factory or a place convenient thereto, and shall be made available for inspection by any ATF officer upon his request.

(72 Stat. 1423; 26 U.S.C. 5741)